



From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year) 09.09.2004

Applicant's or agent's file reference
RLL-268.1WO

IMPORTANT NOTIFICATION

International application No.
PCT/IB 02/03740

International filing date (day/month/year)
12.09.2002

Priority date (day/month/year)
26.08.2002

Applicant
RANBAXY LABORATORIES LIMITED et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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Authorized Officer

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference RLL-268.1WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IB 02/03740	International filing date (<i>day/month/year</i>) 12.09.2002	Priority date (<i>day/month/year</i>) 26.08.2002
International Patent Classification (IPC) or both national classification and IPC C07D521/00		
Applicant RANBAXY LABORATORIES LIMITED et al.		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	<p>This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>
3.	<p>This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 19.03.2004	Date of completion of this report 09.09.2004
Name and mailing address of the international preliminary examining authority: <div style="display: flex; align-items: center;"> <div> European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 </div> </div>	Authorized Officer Lauro, P Telephone No. +49 89 2399-8288



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/B 02/03740**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17):*

Description, Pages

1-42 as originally filed

Claims, Numbers

1-25 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 22-23

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 22-23

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-21,24-25
Inventive step (IS)	Yes: Claims	
	No: Claims	1-21,24-25
Industrial applicability (IA)	Yes: Claims	1-21,24-25
	No: Claims	

2. Citations and explanations

see separate sheet

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EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IB 02/03740

1. The examination is carried out for the subject-matter for which a search report has been drawn up, namely claims 1-21,24-25.

2. Reference is made to the following documents:

D1: WO-A-02051408

D2: WO-A-9639394

D3: WO-A-0166551

D4: EP-A-0567982

D5: EP-A-0097469

D6: Chemical And Pharmaceutical Bulletin, Pharmaceutical Society Of Japan. Tokyo, Jp (1996), 44(2), 314-327

D7: EP-A-0967210

3. **Novelty**

The compounds disclosed in D1 and D2 anticipate compounds of formula (I) wherein Z represents a triazol-3-thione ring.

Re D3 to D7 the compounds of the present application differ due to the definition of the group Z.

4. **Inventive step**

The compounds of the present application are antifungal agents as the compounds disclosed in all of the prior art documents cited above. Only the compounds disclosed in D2 appear to be useful in agriculture; for all the other compounds of the prior art a pharmaceutical use is disclosed. In view of the fact that the general formula disclosed in D1 overlaps with formula (I) of the present application, and in view of the fact that the group the triazol-3-thione derivatives are obviously derivable from the triazol-3-one derivatives disclosed in D3, D4, D6 and that compounds without a second ring have been already disclosed (see e.g. D6), the fungicidal activity of the compounds of the present application would have been expected and no inventive step appears to be involved in their provision as antifungal agents.

5. Further observations:

The definitions of Ar and A are unclear since it is not understood what represents

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the definition of Ar or A and what the substituents on said groups. The applicant is invited to clearly identify in the claims the main groups and their substituents. The groups indicated as preferred in the claims should either be made part of the definition (e.g. by using an expression such as "selected from ...") or become subject-matter of a dependent claim.

Claim 5 refers to a "method for treatment".

The claims directed to subgroups of formula (I) should be indicated as being dependent on claim 1 for reasons of clarity. Claim 2 should also be made dependent on claim 1.